
INTRODUCTION

To make a determination of how to pay for a placement, staff must be able to identify the specific legal status and living arrangement of the child. To facilitate this determination, definitions of legal statuses are included in this item; see FOM 901-7 for living arrangement codes and FOM 901-8 for applicable fund sources.

LEGAL REQUIREMENTS

Legal authority for DHS to provide, purchase or participate in the cost of out-of-home care for a child has been established in state law: the juvenile code, MCL 712A.1 et seq.; the Social Welfare Act, MCL 400.1 et seq.; the Michigan Children's Institute Act, MCL 400.201 et seq.; the Michigan Adoption Code, MCL 710.21 et seq.; and the Youth Rehabilitation Services Act, MCL 803.301, et seq. These laws specify the method of DHS participation in the cost of care. The legislature has established a system whereby either:

1. The local court may provide out-of-home care services directly and request reimbursement by the state (child care fund).
2. The court may commit the child to the state and reimburse the state for the cost of care provided (state ward board and care).

Under option #1, the court may request that DHS provide casework service through a placement and care order.

Children come within the jurisdiction of the family division of the circuit court due to delinquency or neglect situations as defined in the juvenile code. For delinquency cases, the court may retain responsibility for the child or may make the child the responsibility of DHS through either a placement and care order or a state ward commitment order. For abuse/neglect cases, the court makes the child the responsibility of DHS through either a placement and care order or a state ward commitment order.

Title IV-E of the Social Security Act provides federal financial participation in the cost of foster care for a child who is title IV-E eligible. This legislation places certain restrictions on this federal financial participation. An explanation of all requirements can be found in FOM 902, Funding Determinations and Title IV-E Eligibility.

LEGAL STATUS

These are the legal status codes:

- **Legal Status 40 - Delinquent Court Ward:** A child who has been determined by the family court to come within its jurisdiction due to a violation of the delinquency section of the Juvenile Code. The court may issue an order that **refers** the child to DHS for placement and care responsibility. The court retains responsibility for judicial review of the child's case.
- **Legal Status 41 - Permanent Court Ward (Neglect):** A child whose parents' rights have been terminated by the family division of the circuit court with jurisdiction over the child. Following termination, the child is **referred** to DHS for adoption planning and services under MCL 400.55(h) without commitment to the Michigan Children's Institute (MCI). The court retains legal authority and responsibility for the permanent court ward.
- **Legal Status 42 - Temporary Court Ward (Abuse/Neglect):** A child who has been determined by the family court to come within its jurisdiction due to the parents' unwillingness or inability to provide adequate or appropriate care. In this situation, parental rights to the child have **not** been terminated. The court may issue an order making the youth the responsibility of DHS for placement and care while retaining the responsibility for judicial review.
- **Legal Status 43 - Court Ward - Supervised Adoption:** A child who has been placed for adoption, but the adoption has not been finalized. A child is placed for adoption after the court has accepted the MCI Superintendent's consent to adoption, terminated the MCI Superintendent's rights regarding the child, and placed the child for purposes of adoption under MCL 710.51.
- **Legal Status 44 - State Ward (Abuse/Neglect):** A child who has been **committed** to DHS following termination of parental rights by a family division of the circuit court with jurisdiction over the child. DHS acquires legal authority over the child as a result of either:
 - Public Act 220 of 1935 - Upon termination of parental rights of both parents, the court commits the child to the DHS pursuant to MCL 400.203. Such a child is considered a ward of the Michigan Children's Institute (MCI). The MCI Superintendent is the child's legal guardian.

- Public Act 296 of 1974 - Parents voluntarily relinquish (release) their parental rights. Following release, the court commits the child to the DHS pursuant to MCL 710.29(7). A private child placing agency, to whom a release was given, may release the child to DHS. A state ward under this statute is treated as an MCI ward. To be considered an Act 296 ward, one of the following three scenarios must have happened:
 - Both legal parents voluntarily release their parental rights.
 - An involuntary termination of one parent's parental rights occurs under the Juvenile Code. Regardless of which happens first, the other parent voluntarily relinquishes his/her parental rights under the Adoption Code.
 - One parent is deceased. The other parent voluntarily releases his/her parental rights.
- **Legal Status 45 - State Ward - Temporary Observation (MCI-O):** A temporary court ward (abuse/neglect) or a permanent court ward for whom the court has issued a temporary commitment order to DHS under MCL 400.203, for a period not to exceed 90 days. At the request of DHS and the concurrence of the court (by issuing a supplemental order), this temporary commitment may be extended.
- **Legal Status 46 - State Ward - Delinquent - Act 150:** A child who has been **committed** to DHS under the Youth Rehabilitation Services Act, according to the following requirements:
 - The child is at least 12 years of age at the time of commitment by the juvenile court, and
 - The offense for which the child is committed occurred prior to the child's 17th birthday.
- **Legal Status 47 - OTI - Delinquency:** A child who is under the jurisdiction of another state for a delinquency matter and residing in Michigan under Michigan DHS supervision.
- **Legal Status 48 - OTI - Abuse/Neglect:** A child who is under the jurisdiction of another state for a neglect matter and residing in Michigan under DHS supervision.

- **Legal Status 49 - OTI - Adoption:** A child who is under the jurisdiction of another state for an adoption matter and residing in Michigan under DHS supervision.
- **Legal Status - 50 - Non-Ward with a Delinquent Petition Filed:** A child who was convicted of a criminal offense that was waived to adult proceedings. In these situations DHS completes a pre-sentence investigation (PSI) report for the adult court but has no supervision responsibilities.
- **Legal Status 51 Non-Ward (Not Delinquent, Voluntary):** A child who is a former MCI ward, but whose foster care case remains open voluntarily and continues to receive services from the department. This includes any one of several situations in which the parents of a child have requested DHS to provide assistance in the out-of-home placement of the child; see FOM 722-01, Entry Into Foster Care.
- **Legal Status 52 - Dual Wardship:** A child who is a state ward under **both** the Michigan Children's Institute Act and the Youth Rehabilitation Services Act.
- **Legal Status 55 - Youth in Transition (YIT):** A child whose foster care or delinquency case was closed and is now receiving YIT services.
- **Legal Status 56 - Young Adult Voluntary Foster Care (YAVFC):** A youth who is eligible for and in the YAVFC program.
- **Legal Status 90 - Delinquent Court Ward (legal status 40) and Temporary Court Ward (legal status 42):** A child who has both legal statuses. For payments, this child is treated as a delinquent court ward (legal status 40).
- **Legal Status 91 - Delinquent Court Ward (legal status 40) and Permanent Court Ward (legal status 41):** A child who has both legal statuses. For payments, this child is treated as a delinquent court ward (legal status 40).
- **Legal Status 92 - State Ward Delinquent Act 150 (legal status 46) and Temporary Court Ward (legal status 42):** A child who has both legal statuses. For payments, this child is treated as a state ward delinquent Act 150 (legal status 46).

- **Legal Status 93 - State Ward Delinquent Act 150 (legal status 46) and Permanent Court Ward (legal status 41):** A child who has both legal statuses. For payments, this child is treated as a state ward delinquent Act 150 (legal status 46).
- **Legal Status 94 - Delinquent Court Ward (legal status 40) and State Ward (legal status 44):** A child who has both legal statuses. For payments, this child is treated as a delinquent court ward (legal status 40).
- **Legal Status 97 - Adoption Subsidy:** A child whose adoption is finalized and is receiving services from the adoption subsidy program.
- **Legal Status - GAP:** A child who is in the subsidized guardianship assistance program (GAP).
- **Legal Status - CPS Temporary Court Ward:** A child who has been determined by the family court to come within its jurisdiction, but the child remains in the parental home and supervised by Children's Protective Services (CPS). The court may issue an order making the youth the responsibility of DHS for placement and care while retaining the responsibility for judicial review.